NEWTON, ATTORNEY GENERAL OF THE STATE OF NEW YORK, ET AL. *v.* KINGS COUNTY LIGHTING COMPANY.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE SOUTHERN DISTRICT OF NEW YORK.

No. 295. Argued January 5, 6, 1922.—Decided March 6, 1922.

Approving the conclusion of the master and of the District Court, that the gas rate imposed on appellee under New York Laws, 1906, c. 125; 1916, c. 604, had become confiscatory.
268 Fed. 143, affirmed.

APPEAL from a decree enjoining enforcement of a statutory gas rate as confiscatory. See also the preceding cases, *ante*, 165, 178.

Mr. Wilber W. Chambers, with whom *Mr. Charles D. Newton*, Attorney General of the State of New York, and *Mr. Charles E. Buchner* were on the briefs, for Newton, Attorney General.

Mr. Samuel F. Moran, with whom *Mr. John D. Monroe* was on the brief, for appellee.

Mr. JUSTICE MCREYNOLDS delivered the opinion of the court.

This is an appeal from a final decree entered October 19, 1920, which enjoined the enforcement of c. 125, Laws of New York of 1906, and also the Act of New York Legislature approved May 9, 1916, c. 604, Laws of 1916. 268 Fed. 143. The first of these statutes fixed the price which appellee might charge for gas distributed in New York City at $1.00 per thousand cubic feet, and the second amended the earlier one by reducing the maximum price to eighty cents.

180. Syllabus.

The original bill filed in May, 1920, alleges that the actual cost to appellee of manufacturing and distributing gas during 1919 and the first three months of 1920 had exceeded eighty cents per thousand cubic feet; that such cost would not be less than $1.00 for an indefinite period thereafter; and that the statutory rate was confiscatory.

The matter was referred to a Master who took proof and made a report which supported appellee's claim. With some unimportant modifications this was confirmed by the court. An appropriate decree followed which we are asked to reverse for sundry specified reasons commented upon orally and in the brief.

We are satisfied that the court below reached a correct conclusion and that none of the points relied upon for reversal are adequate to justify such action. So far as substantial all were adequately disposed of by the opinion of the trial court, and we need not comment further upon them.

The judgment below is

Affirmed.